

EXHIBIT A

FILED IN MY OFFICE
DISTRICT COURT CLERK
11/4/2013 10:18:32 AM
GREGORY T. IRELAND

STATE OF NEW MEXICO
BERNALILLO COUNTY
SECOND JUDICIAL DISTRICT COURT

Patricia Serna

ALFRED COSTANZO and MELANIE
COSTANZO,

Plaintiffs

v.

No. D-202-CV-2013-08782

PROPERTY & CASUALTY INSURANCE
COMPANY OF HARTFORD

Defendant.

**COMPLAINT FOR BREACH OF CONTRACT AND
UNFAIR INSURANCE PRACTICES**

COME NOW Plaintiffs, ALFRED COSTANZO and MELANIE COSTANZO
("Costanzo"), through counsel, and submits this complaint against Defendant PROPERTY &
CASUALTY INSURANCE COMPANY OF HARTFORD ("Hartford"):

1. Plaintiffs are residents of Bernalillo County. The real property that is the subject of the insurance policy referenced below is located in Bernalillo County, New Mexico.
2. Hartford is an insurance company organized under the laws of a state other than New Mexico and is doing business within the state of New Mexico.
3. As of December 27, 2011, Plaintiffs had sold to Theresa K. Hamill and James P. Hamill, a residence located at 242 Vermont Street NE, Albuquerque, New Mexico 87108, (the "Property"). The sale of the Property was owner financed, such that Plaintiffs had a Purchase Money Mortgage upon the Property.
4. On or about December 27, 2011, there was a fire at the Property, causing substantial damage.
5. At the time of that fire, Mr. & Mrs. Hamill had obtained, and there was in effect, an insurance policy upon the Property, issued by Hartford, being Policy #55-RBC-358006 (the

"Policy"). The Plaintiffs, as mortgagees with respect to the Property, were additional insureds with respect to the Policy. A true copy of the Policy is attached hereto as Exhibit 1.

6. After the December 27, 2011 fire, Mr. & Mrs. Hamill came into default with respect to their mortgage, and Plaintiffs foreclosed upon that mortgage in a proceeding entitled *Costanzo v. Hamill*, Cause No. D-202-CV-2012-8815, in the Second Judicial District Court (the "Foreclosure Proceeding"). As a result of the Foreclosure Proceeding, the Plaintiffs have foreclosed upon their mortgage and are now the owners of the Property.

7. Hartford has not disputed that damages caused by said fire are covered by the Policy, but Plaintiffs and Hartford have never been able to agree upon a proper resolution of Plaintiffs' claims against Hartford.

8. Hartford's position with regard to the amount it has offered to pay for such fire loss has consistently been unreasonable.

9. Hartford's failure and refusal to take all steps necessary to repair such fire loss and to meet its obligations under the Policy have been in bad faith.

10. As a known and foreseeable consequence of Hartford's failure promptly to effect the repair of all damage cause by such fire loss, the Property has suffered extensive and additional and consequential damages with the result that the Property is now uninhabitable and a total loss.

11. Hartford's failure and refusal to take all steps necessary to repair such fire loss and to meet its obligations under the Policy have also been in violation of the New Mexico Unfair Insurance Practices Act, including, without limitation, NMSA 1978 §§59A-16-20 (B), (C), (E) and (G).

12. As a direct, proximate and foreseeable result of Hartford's breach of the Policy, and of Hartford's improper conduct, Plaintiffs have suffered actual damages in an amount to be determined at trial.

14. Hartford's conduct constitutes a knowing and willful unfair trade practice and a violation of the New Mexico Unfair Practices Act, including, without limitation, NMSA 1978 §§57-12-2D (15) and (17).

15. Hartford's conduct has also been in bad faith and in reckless disregard of rights of the Plaintiffs such that punitive damages should be assessed against Hartford in an amount to be determined at trial.

WHEREFORE, Plaintiffs pray the Court for judgment against Hartford in the amount of all actual and compensatory damages, for punitive damages, for treble damages, for costs and attorneys' fees, for pre-judgment and post-judgment interest, and for such other and further relief as the Court may deem just and proper.

MYERS, OLIVER & PRICE, P.C.

By: 

Floyd D. Wilson
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STATE OF NEW MEXICO
BERNALILLO COUNTY
SECOND JUDICIAL DISTRICT COURT

Patricia Serna

ALFRED COSTANZO and MELANIE
COSTANZO,

Plaintiffs

v.

No. D-202-CV-2013-08782

PROPERTY & CASUALTY INSURANCE
COMPANY OF HARTFORD

Defendant.

COURT-ANNEXED ARBITRATION CERTIFICATE

Petitioners, ALFRED COSTANZO and MELANIE COSTANZO, through
counsel, MYERS, OLIVER & PRICE, P.C. (Floyd Wilson), pursuant to Second Judicial District

Local Rules, Rule LR2-603, certify as follows:

- ☐ This party seeks only a money judgment and the amount sought does not exceed twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorneys fees.
- ☒ This party seeks relief other than a money judgment and/or seeks relief in excess of twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorneys fees.

MYERS, OLIVER & PRICE, P.C.

By


Floyd Wilson

Attorneys for Petitioners
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GREGORY T. IRELAND
Gwendolen Lindquist

STATE OF NEW MEXICO
BERNALILLO COUNTY
SECOND JUDICIAL DISTRICT COURT

ALFRED COSTANZO and MELANIE
COSTANZO,

Plaintiffs

v.

No.D-202-CV-2013-08782

PROPERTY & CASUALTY INSURANCE
COMPANY OF HARTFORD

Defendant.

DEMAND FOR JURY TRIAL

COME NOW, Plaintiffs ALFRED COSTANZO and MELANIE COSTANZO, by counsel,
MYERS, OLIVER & PRICE, P.C., and demand a trial by jury of SIX (6) persons as to all issues
triable by right in the above-styled and numbered cause.

MYERS, OLIVER & PRICE, P.C.

By: 

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GREGORY T. IRELAND

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

Lourdes Perez

CERTIFICATE

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

D202CV2013-08782

ALFRED COSTANZO & MELANIE COSTANZO,
Plaintiff,

VS

PROPERTY & CASUALTY INSURANCE COMPANY OF HARTFORD,
Defendant,

ACCEPTANCE OF SERVICE

I, John G. Franchini, Superintendent of Insurance of the State of New Mexico, do hereby certify that a copy of a Summons, Complaint for Breach of Contract and Unfair Insurance Practices, Court-Annexed Arbitration Certification, and Acceptance of Service, on the above styled cause was accepted by me on behalf of PROPERTY & CASUALTY INSURANCE COMPANY OF HARTFORD, on November 18, 2013, provided in Sections 59A-5-31 and 59A-5-32 NMSA 1978, and was received by said company on November 20, 2013, as shown by return receipt by Postmaster.



In Witness Whereof, I have
hereunto set my official seal
on this 22nd of November, 2013

John G. Franchini
Superintendent of Insurance

EXHIBIT B

Name Searched On:**PROPERTY AND CASUALTY INSURANCE COMPANY OF HARTFORD (Legal)****Current Information**Entity Legal Name:**PROPERTY AND CASUALTY INSURANCE COMPANY OF HARTFORD**Entity Address:**501 PENNSYLVANIA PARKWAY, SUITE 400, INDIANAPOLIS, IN 46280****General Entity Information:**Control Number: **1989050227**Status: **Active**Entity Type: **Domestic Insurance Corporation**Entity Creation Date: **5/4/1989**Entity Date to Expire:Entity Inactive Date:**This entity is current with Business Entity Report(s).****There are no other names on file for this Entity.**Registered Agent(name, address, city, state, zip):**CT CORPORATION SYSTEM****150 West Market Street Suite 800****INDIANAPOLIS , IN 46204**Principals(name, address, city, state, zip - when provided)**Terence Shields****Secretary****One Hartford Plaza HO-1-09****Hartford , CT 06155****ANDRE A. NAPOLI****President****ONE HARTFORD PLAZA****HARTFORD , CT 06155**Transactions:

Date Filed	Effective Date	Type
05/04/1989	05/04/1989	Articles of Incorporation

07/09/1993	07/09/1993	Miscellaneous
06/08/1994	06/08/1994	Miscellaneous
05/31/1995	05/31/1995	Miscellaneous
05/30/1996	05/30/1996	Articles of Amendment
11/15/1996	11/15/1996	Miscellaneous
05/20/1997	05/20/1997	Miscellaneous
06/02/1999	06/02/1999	Miscellaneous
09/27/2000	09/27/2000	Amended and Restated Articles
07/11/2001	07/11/2001	Notice of Change of Registered Office or Registered Agent
08/20/2001	08/20/2001	Miscellaneous
08/27/2003	08/27/2003	Miscellaneous
07/06/2004	07/02/2004	Notice of Change of Registered Office or Registered Agent
03/09/2005	03/09/2005	Notice of Change of Registered Office or Registered Agent
09/21/2005	09/21/2005	Miscellaneous
03/22/2007	03/22/2007	Miscellaneous
03/04/2009	03/04/2009	Miscellaneous
03/02/2011	03/02/2011	Miscellaneous
11/30/2012	11/30/2012	Notice of Change of Registered Office or Registered Agent
06/03/2013	06/03/2013	Notice of Change of Registered Office or Registered Agent

Corporate Reports:**Years Paid**

N/A

Years Due

None

Additional Services Available:

GO	Generate an official Certificate of Existence/Authorization. There is a fee of 20.00 for <i>IN.gov</i> subscribers and a fee of \$21.42 for credit card users. Example Certificate
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NEW SEARCH

All the entity information captured by the Indiana Secretary of State, pursuant to law, is

displayed on the Internet. For further information, please call our office at 317-232-6576. Copies of actual corporate documents can also be downloaded online.

If you encounter technical difficulties while using these services, please contact the *IN.gov* Webmaster.

If you are unable to find the information you need through the resources provided on this web site, please contact Secretary of State Connie Lawson's Business Services Division at 317-232-6576.

« Back to the SOS Web site

EXHIBIT C

Property & Casualty Insurance Company of Hartford

Please complete all of the following information:

Claim Number: PP0010458824
CCPS Number: YQQ KDP 11750
Date of Loss: 12/27/2011
Named Insured: Theresa Garnier & Ja Hamill
Insured's Address: 173 Cayuga St
Groton, NY 13073
Loss Location: 242 VERMONT ST N E
Policy Number: 55 RBC 358006
Policy Period: 09/01/2011 - 09/01/2012
Police/Fire Department: UNKNOWN
Police/Fire Report Number: UNKNOWN
Date Reported to Police/Fire: UNKNOWN
Investigating Officer/Inspector: UNKNOWN
Amount of Claim: \$95,862.60

I bought the property back at foreclosure
for \$50,000.

Describe how the loss occurred:

Describe how the loss occurred:
I was not present at the time, what I have been told is that the fire was started as a result of the gas wall heater in the living room.

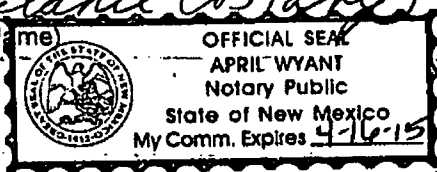
At the time of loss the property belonged to: James P. Hamill & Theresa Garner (wife of James Hamill)
 who were purchasing the property from Alfred L. Costanzo & Melanie E. Costanzo
 No other person had any interest except as follows: James P. Hamill & Theresa Garner/Hamill and Alfred
And Melanie Costanzo, I have named recently the State Tax & Inv. has had taxes owed \$3500 + 1008.95 to the
 The undersigned warrants that there is no other insurance carried that would apply to this loss except: City of ABQ.
for Hartford ins. Co. under the above listed people covered.

I certify that the foregoing statement, including the attached Schedule of Loss, is correct and no material fact is withheld of which the company should be advised. I understand that any willful misrepresentation or willful concealment of any material fact will invalidate this claim.

State of New Mexico County of Bernalillo
Subscribed and sworn to before me this 8th day of July in the year 2013.
Alfred V. Castano
(Insured Name)

(Insured Name)

(Insured Name)



(Notary Signature)

(Notary: affix seal above signature.)

New Mexico law requires the following statement to appear on this form.

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.

Handling ID:
LTR10206059
RR1

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